

110TH CONGRESS
2D SESSION

S. 3543

To improve the administration of the Minerals Management Service, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23 (legislative day, SEPTEMBER 17), 2008

Mr. MENENDEZ (for himself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To improve the administration of the Minerals Management
Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Integrity in Offshore Energy Resources Act of 2008”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—EMPLOYEES OF SERVICE

Sec. 101. Employee ethical standards.

TITLE II—PROGRAMS OF SERVICE

Sec. 201. Suspension of royalty-in-kind program.

Sec. 202. Audits.

Sec. 203. Annual reports.

Sec. 204. Prohibition on use of royalty-in-kind revenues for administrative costs.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—The term “Department”
4 means the Department of the Interior.

5 (2) MINERAL.—The term “mineral” has the
6 meaning given the term “minerals” in section 2 of
7 the Outer Continental Shelf Lands Act (43 U.S.C.
8 1331).

9 (3) MINERAL MINING.—

10 (A) IN GENERAL.—The term “mineral
11 mining” means—

12 (i) any activity carried out on Federal
13 land on or off a claim (with or without a
14 discovery) for mineral leasing, preleasing,
15 any related activity, prospecting, explo-
16 ration, development, mining, extraction,
17 milling, beneficiation, processing, or stor-
18 age of mined or processed materials with
19 respect to any mineral that is under the
20 jurisdiction of the Service and uses reason-
21 ably incident to the activity; and

1 (ii) any reclamation activity for any
2 mineral and uses reasonably incident to
3 the activity.

4 (B) INCLUSIONS.—The term “mineral ac-
5 tivity” includes the construction and use of
6 roads, transmission lines, pipelines, utility cor-
7 ridors, and other means of access across Fed-
8 eral land for an ancillary facility.

9 (4) ROYALTY-IN-KIND PROGRAM.—The term
10 “royalty-in-kind program” means the program es-
11 tablished under—

12 (A) section 342 of the Energy Policy Act
13 of 2005 (42 U.S.C. 15902);

14 (B) section 36 of the Mineral Leasing Act
15 (30 U.S.C. 192);

16 (C) section 27 of the Outer Continental
17 Shelf Lands Act (43 U.S.C. 1353); or

18 (D) any other similar provision of law.

19 (5) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (6) SERVICE.—The term “Service” means the
22 Minerals Management Service.

TITLE I—EMPLOYEES OF SERVICE

SEC. 101. EMPLOYEE ETHICAL STANDARDS.

(a) GIFTS.—

(1) PROHIBITION.—

(A) IN GENERAL.—An employee of the Service may not knowingly accept a gift from an entity that is engaged in the business of mineral mining.

(B) EXCEPTIONS.—Except for the value exception, the regulations providing exceptions to the gift rules for Federal employees for gifts from outside sources (5 C.F.R. Part 2635) shall apply to subparagraph (A).

(2) VIOLATION.—Whoever violates paragraph (1) shall be guilty of a felony and fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(b) FINANCIAL DISCLOSURE.—The filing requirements of section 101(f) of the Ethics in Government Act of 1978 shall apply to an employee of the Service in a position classified at an annual income equivalent to GS-13 or higher.

(c) DIVESTITURE REQUIREMENT.—An employee of the Service may not own stock or any other interest in

1 an entity that is engaged in the business of mineral mining
 2 during the period of employment of that employee by the
 3 Service.

4 (d) OUTSIDE EMPLOYMENT.—An employee of the
 5 Service may not be employed by any entity that is engaged
 6 in the business of mineral mining during the period of em-
 7 ployment of that employee by the Service.

8 (e) REVOLVING DOOR.—

9 (1) ANY WORK FOR THE INDUSTRY.—An em-
 10 ployee of the Service shall not work for an entity en-
 11 gaged in the business of mineral mining during the
 12 1 year period after the termination of his or her em-
 13 ployment with the Service.

14 (2) VIOLATION.—Whoever violates paragraph
 15 (1) shall be guilty of a felony and punished as pro-
 16 vided in section 216 of title 18, United States Code.

17 **TITLE II—PROGRAMS OF** 18 **SERVICE**

19 **SEC. 201. SUSPENSION OF ROYALTY-IN-KIND PROGRAM.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
 21 sion of law, the authority of the Secretary to carry out
 22 each royalty-in-kind program is suspended during the pe-
 23 riod—

24 (1) beginning on the date of enactment of this
 25 Act; and

1 (2) ending on the date the Secretary certifies to
2 Congress that the Secretary, acting through the
3 Service, has—

4 (A) conducted a comprehensive review to
5 determine if the Service is accurately collecting
6 royalties and reported the results of the review
7 to Congress;

8 (B) conducted a thorough review to ensure
9 that metering equipment properly measures
10 what royalties are owed to the Federal Govern-
11 ment and reported the results of the review to
12 Congress;

13 (C) implemented a robust training pro-
14 gram for employees of the Service that cul-
15 minates in a certification signed by an employee
16 that the employee understands the ethics laws
17 (including regulations); and

18 (D) created an ombudsman position that—

19 (i) monitors the progress of the Serv-
20 ice in carrying out the actions described in
21 this paragraph; and

22 (ii) is appointed by, and reports exclu-
23 sively to, the Inspector General of the De-
24 partment.

1 (b) APPLICATION.—Subsection (a) applies to a con-
2 tract entered into on or after the date of enactment of
3 this Act.

4 **SEC. 202. AUDITS.**

5 (a) NUMBER OF AUDITS.—

6 (1) IN GENERAL.—The Secretary shall ensure
7 that by fiscal year 2009 the Service shall perform
8 each fiscal year not less than 550 audits of oil and
9 gas leases entered into by the Secretary for which
10 payment is made under a royalty-in-kind program.

11 (2) COMPLIANCE REVIEWS.—For purposes of
12 paragraph (1), a compliance review shall not be con-
13 sidered an audit.

14 (b) STANDARDS.—Not later than 120 days after the
15 date of enactment of this Act, the Secretary shall promul-
16 gate regulations that—

17 (1) require that all employees that conduct au-
18 dits or compliance reviews of oil and gas leases en-
19 tered into by the Secretary shall meet professional
20 auditor qualifications that are consistent with the
21 latest revision of the Government Auditing Stand-
22 ards issued by the Comptroller General of the
23 United States; and

1 (2) ensure that all audits conducted by the De-
 2 partment are performed in accordance with the
 3 Standards.

4 **SEC. 203. ANNUAL REPORTS.**

5 Not later than 1 year after the date of enactment
 6 of this Act and each year thereafter, the Inspector General
 7 of the Department shall submit to Congress a report that
 8 evaluates—

9 (1) the performance of the Secretary in car-
 10 rying out each royalty-in-kind program; and

11 (2) whether the royalty-in-kind program costs
 12 or saves taxpayer dollars as compared to receiving
 13 revenues in cash.

14 **SEC. 204. PROHIBITION ON USE OF ROYALTY-IN-KIND REV-**
 15 **ENUES FOR ADMINISTRATIVE COSTS.**

16 Section 342(b)(5) of the Energy Policy Act of 2005
 17 (42 U.S.C. 15902(b)(5)) is amended—

18 (1) by striking “LIMITATION.—” and all that
 19 follows through “subparagraph (B), the” in sub-
 20 paragraph (A) and inserting “LIMITATION.—The”;
 21 and

22 (2) by striking subparagraph (B).

○